



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Planning Commission

From: Mitchell N. Harvey, AICP, Comprehensive Planning Manager *MH*

Through: Townsley Schwab, Acting Director of Planning & Environmental Resources *TS*

Date: November 10, 2008

Subject: *Request for Amendments to Sections 9.5-120, 9.5-122, and 9.5-266, Monroe County Land Development Regulations*

Meeting: November 18, 2008

1

2 I REQUEST

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4 The Monroe County Workforce Housing Task Force is recommending amendments to the

5 Land Development Regulations to allow the Tier IIIA clearing standards that apply to market

6 rate residential and commercial development to also apply to affordable residential

7 development.

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9

10 II PROCESS

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12 In accordance with the provisions set forth in Sec. 9.5-511 of the Monroe County Code

13 (MCC), amendments may be proposed by the Board of County Commissioners (BOCC), the

14 Planning Commission, the Director of Planning, or the owner or other person having a

15 contractual interest in property to be affected by a proposed amendment. The Director of

16 Planning shall review and process the text and map amendment applications as they are

17 received and pass them on to the Development Review Committee and the Planning

18 Commission for recommendation and final approval by the BOCC.

19

20 The Planning Commission and the BOCC shall each hold at least one public hearing on a

21 proposed amendment to the text or to the land use district map. The Planning Commission

22 shall review the application, the reports and recommendations of the Department of Planning

23 & Environmental Resources and the Development Review Committee, and the testimony

24 given at the public hearing, and shall submit its recommendations and findings to the BOCC.

25 The BOCC shall consider the report and recommendation of and the testimony given at the

26 public hearings and may either deny the application or adopt an ordinance approving the

27 proposed amendment. Ordinances are then reviewed by the Florida Department of

28 Community Affairs.

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1 In no event shall an amendment be approved which will result in an adverse community
2 change of the planning area in which the proposed development is located. In the event of a
3 written protest against such amendment signed by the owners of twenty (20) percent or more
4 either of the area of the lots or land included in the proposed amendment or of the lots or land
5 immediately adjoining the property to be affected and extending two hundred (200) feet there
6 from, such amendment shall not become effective except by the favorable vote of four (4)
7 members of the BOCC.
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9 III RELEVANT PRIOR COUNTY ACTIONS

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12 On June 16, 2004, the BOCC adopted Ordinance 018-2004 which designated conservation
13 and natural areas and established lot clearing standards for those areas.
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15 On March 15, 2006, the BOCC adopted Ordinance 09-2006, revising Sections 9.5-120-123
16 and Sections 9.5-125-140 (Rate of Growth Ordinance) and revising Section 9.5-266
17 (Affordable and Employee Housing), limiting affordable housing in Tier III areas.
18

19 On April, 19, 2006, the BOCC adopted Ordinance 16-2006, which revised Ordinance 09-
20 2006, amending Section 9.5-266 to restrict affordable housing from the Tier IIIA Special
21 Protection Area that required lot clearing of more than one or more acres. A summary of this
22 ordinance is provided within Exhibit A.
23

24 At its April 10, 2008 meeting in Key Colony Beach, the Monroe County Workforce Housing
25 Task Force supported a motion that the BOCC amend the Land Development Regulations
26 and the Comprehensive Plan to apply the same habitat clearing standards that are permitted
27 for market rate residential and commercial development to affordable residential
28 development.
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30 At its July 17, 2008 meeting in Key Colony Beach, the Monroe County Workforce Housing
31 Task Force reviewed the draft ordinance and supported a motion to forward the proposed
32 ordinance to the Development Review Committee, Planning Commission and BOCC for
33 approval.
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35 On October 21, 2008, the Monroe County Development Review Committee held a public
36 meeting to consider the proposed ordinance. There were no DRC or public comments.
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38 IV REVIEW OF APPLICATION

39 40 A. *Consistency of the proposed amendment with the provisions and intent of the Monroe* 41 *County Year 2010 Comprehensive Plan:* 42

43 The proposed amendment is consistent with Policy 105.2.1(3), which defines Tier III
44 Infill Areas.
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2 B. *Consistency of the proposed amendment with the provisions and intent of Chapter 9.5 of*
3 *the Monroe County, Land Development Regulations:*
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5 The proposal amends the Land Development Regulations to allow the clearing of land
6 designated Tier III for affordable housing in a manner similar to market rate housing and
7 non-residential development.
8

9 In accordance with MCC Sec. 9.5-511(d)(5)b., the BOCC may consider the adoption of
10 an ordinance enacting the proposed change based on one (1) or more of the following
11 factors:

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13 i. Changed projections (e.g., regarding public service needs) from those on which the
14 text or boundary was based;
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16 None.
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18 ii. Changed assumptions (e.g., regarding demographic trends);
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20 None.
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22 iii. Data errors, including errors in mapping, vegetative types and natural features
23 described in Volume 1 of the Monroe County Year 2010 Comprehensive Plan;
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25 None.
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27 iv. New issues;
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29 Fair housing laws prohibit discriminatory zoning and land use decisions. If a land use
30 or permitting denial is based solely on whether the development proposed is market
31 value or affordable, it is a violation of fair housing law. The Land Development
32 Regulations that control lot clearing within Tier IIIA designated property presently
33 allows clearing for market rate housing and non-residential uses, while prohibiting lot
34 clearing for affordable housing. Consequently, affordable housing must be addressed
35 in an equitable manner, similar to other land uses. The proposed amendments address
36 these inequities by applying the same lot clearing standards for affordable housing
37 that is presently applied to market rate housing and non-residential land uses within
38 Tier IIIA property. This proposal was recommended by the Affordable Housing
39 Advisory Committee (formerly known as the Workforce Housing Task Force) on
40 April 10, 2008.
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42 v. Recognition of a need for additional detail or comprehensiveness; or
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44 None.
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1 vi. Data updates;

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3 None.

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5 C. *Consistency with the Principles for Guiding Development in the Florida Keys Area of*
6 *Critical State Concern:*

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8 The proposed text amendment is consistent with the Principles for Guiding Development.
9 Specifically, the amendment furthers:

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11 Principal (a) To strengthen local government capabilities for managing land use and
12 development so that local government is able to achieve these objectives without the
13 continuation of the area of critical state concern designation.

14
15 The proposal will allow Monroe County to better regulate and manage affordable housing
16 in accordance with Federal housing standards.

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18 Principal (j) To make available adequate affordable housing for all sectors of the
19 population of the Florida Keys.

20
21 The proposal will promote the continued development, redevelopment and availability of
22 affordable and workforce housing in the Florida Keys.

23
24 Principal (l) To protect the health, safety and welfare of the citizens of the Florida Keys
25 and maintain the Florida Keys as a unique Florida resource.

26
27 The proposal will allow the provision of affordable and workforce housing to those
28 Florida Keys residents who qualify utilizing Federal housing standards.

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30 D. *Impact on Community Character:*

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32 No impacts to community character are anticipated.

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34 V FINDINGS OF FACT

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36 1. The proposed ordinance will promote the availability of affordable housing in Monroe
37 County.

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39 2. The proposed ordinance will enforce equitable clearing standards for affordable housing
40 within Tier IIIA property.

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42 3. The proposal will not impact Rate of Growth Ordinance (ROGO) requirements for
43 obtaining building permit approval for affordable housing on Tier IIIA property.
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1 VI CONCLUSIONS OF LAW

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- 3 1. The proposed ordinance is consistent with the Monroe County 2010 Comprehensive Plan.
- 4
- 5 2. The proposed ordinance is consistent with the Principles for Guiding Development in the
- 6 Florida Keys Area of Critical State Concern.
- 7

8 VII RECOMMENDATION

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10 Staff recommends **approval** to the Monroe County Planning Commission.

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